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E.O. 11652: XGDS-1

TAGS: PARM

SUBJECT: ARTICLE XVII, 3 OF J.D.T. (SALT TWO-714)

REF: STATE 170798, STATE 176114

1. DELEGATION RECOMMENDS THAT U.S. LANGUAGE FOR  
PARAGRAPH 3 OF ARTICLE XVII CONTAINED IN REFTELS BE REVISED  
TO READ AS FOLLOWS:

" EACH PARTY UNDERTAKES NOT TO USE ANY MEASURE OR  
PRACTICE WHICH DELIBERATELY IMPEDES VERIFICATION BY  
NATIONAL TECHNICAL MEANS OF COMPLIANCE WITH THE  
PROVISIONS OF THIS AGREEMENT. THIS OBLIGATION  
SHALL NOT REQUIRE CHANGES IN CURRENT CONSTRUCTION, ASSEMBLY,  
CONVERSION, OR OVERHAUL PRACTICES. EACH PARTY SHALL  
EXERCISE ITS BEST EFFORTS TO AVOID MEASURES AND  
PRACTICES WHICH RESULT IN UNINTENTIONALLY IMPEDING  
VERIFICATION BY NATIONAL TECHNICAL MEANS OF COMPLIANCE  
WITH THE PROVISIONS OF THIS AGREEMENT."

2. THE FOLLOWING AGREED STATEMENT WOULD BE PRESENTED TO THE  
SOVIETS AS AN INTEGRAL AND INSEPARABLE PART OF THE U.S. PROPOSAL:  
"THE PARTIES UNDERSTAND THAT THE WORDS "ANY MEASURE OR  
PRACTICE WHICH DELIBERATELY IMPEDES VERIFICATION" IN  
PARAGRAPH 3 OF ARTICLE XVII INCLUDE ANY ACTIVITY WHICH IS  
CARRIED OUT DELIBERATELY TO HIDE, DISGUISE, OR OTHERWISE  
HINDER THE COLLECTION OF ANY DATA, INCLUDING TESTING AND  
DEVELOPMENT DATA, REQUIRED FOR VERIFICATION BY NATIONAL  
TECHNICAL MEANS OF COMPLIANCE WITH THE PROVISIONS OF THIS  
AGREEMENT."

3. THE REVISED PROVISION IS IDENTICAL TO THAT OF REFTELS EXCEPT  
THAT PHRASE, "INCLUDING MEASURES AND PRACTICES ASSOCIATED  
WITH TESTING AND DEVELOPMENT," HAS BEEN DELETED FROM FIRST  
SENTENCE, AND INCLUDED IN AGREED STATEMENT, AGREED STATEMENT,  
IN OUR VIEW, FULLY DESCRIBES THE SCOPE OF THE OBLIGATION

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State Dept. review completed

CABLE SEC DISSEM BY \_\_\_\_\_ PER \_\_\_\_\_

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SOUGHT BY U.S.

4. DELEGATION BELIEVES THAT APPROACH RECOMMENDED HERE IS PREFERABLE TO LANGUAGE TO REFTELS FOR FOLLOWING REASONS:

A. RECOMMENDED APPROACH TAKES ADVANTAGE OF INFORMAL BUT REPEATED STATEMENT BY SHCHUKIN (SEE SALT TWO-707, MEMCON A-930) TO DEFINE MORE SPECIFICALLY THE ACTIVITIES TO BE PROHIBITED.

B. RECOMMENDED LANGUAGE FOR PARAGRAPH THREE OF ARTICLE XVII MOVES CLOSER TO SOVIET LANGUAGE FOR FIRST SENTENCE. SOVIETS MAY WELL CONTINUE TO OPPOSE "PRACTICES" IN FIRST SENTENCE, IN VIEW OF SHCHUKIN'S INTERPRETATION THAT "PRACTICES" (PORYADOK RABOT) MEANS THE NORMAL WAYS IN WHICH WORK IS CARRIED OUT (LITERALLY "ORDER OF WORK"), WHEREAS (MEASURES (MERY) MEANS, IN THE CONTEXT OF THE PROVISION, ACTIONS SPECIFICALLY TAKEN FOR THE PURPOSE OF IMPEDING VERIFICATION BY NTM. (SEE SALT TWO-692, 697, MEMCONS A-914, 922). IF SOVIETS DO CONTINUE TO OPPOSE "PRACTICES" IN FIRST SENTENCE, DELEGATION CONTEMPLATES END POSITION IN WHICH SOVIET LANGUAGE FOR FIRST SENTENCE IS ACCEPTED BY U.S. IN EXCHANGE FOR SOVIET ACCEPTANCE OF AN EQUIVALENT AGREED STATEMENT. SUCH A RESULT WOULD BE EQUALLY EFFECTIVE IN TERMS OF MAKING OBLIGATION CLEAR AND BINDING. IT COULD ALSO PROVIDE A BASIS FOR U.S. TO ARGUE APPLICABILITY OF THE AGREED STATEMENT TO BOTH INTERIM AGREEMENT AND ABM TREATY.

C. AN ADDITIONAL POINT IS THAT IF "TESTING" IS EXPLICITLY CITED IN FIRST SENTENCE OF PARAGRAPH 3 OF ARTICLE XVII AS IN REFTEL LANGUAGE, SOVIETS MAY INSIST ON ITS ADDITION TO SECOND SENTENCE, THEREBY PERMITTING THEM TO ARGUE THAT CURRENT TESTING PRACTICES SHOULD BE EXEMPTED FROM THE OBLIGATION NOT TO IMPEDE VERIFICATION.

5. CONSIDERATIONS DISCUSSED ABOVE DO NOT INFLUENCE THIRD SENTENCE OF U.S. PROPOSAL, WHICH WOULD REMAIN PART OF ANY OF THESE PACKAGES.  
JOHNSON

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